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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,187	07/25/2003	Laurence H. Tecott	305T-300610US	2696
22798	7590	07/06/2005	EXAMINER	
QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C. P O BOX 458 ALAMEDA, CA 94501			SWIATEK, ROBERT P	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 07/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/627,187

Applicant(s)

TECOTT ET AL.

Examiner

Robert P. Swiatek

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-82 is/are pending in the application.
- 4a) Of the above claim(s) 34-77 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-14, 16-19, 25-33 and 78-82 is/are rejected.
- 7) ☒ Claim(s) 8, 15 and 20-24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11-22-04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

For the purposes of this action, claim 10 is considered to depend from claim 1.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 9-14, 16-19, 25-33, 78-82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duffy et al. (US 5,163,380) in view of Hall et al. (US 6,418,876 B1). The patent to Duffy et al. discloses a method and apparatus for assessing metabolic and behavior physiology of living animals. As such, a given animal is supplied with various life support materials—food, water—and exposed to a material of interest, i.e., a carcinogen, toxin, or pharmacologically active substance; subsequently, the animal is monitored to ascertain any effects induced by the material of interest. The Duffy et al. system includes an animal enclosure CC in the form of a containment cell; a food consumption subsystem 200 (see column 8, lines 24-43, of Duffy et al.), whose output provides an indication of animal feeding activity, and that incorporates an amplifier 216 and capacitor 222; and a fluid consumption subsystem 300 (see column 9, lines 40-67, of Duffy et al.), the output of which provides an indication of animal drinking activity and that incorporates elements substantially the same as those of the food consumption subsystem 200. Since the outputs of subsystems 200, 300 of Duffy et al. are essentially continuous, the overall system can be considered to have a temporal resolution of less

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than 20 seconds. Analysis of data obtained from use of the Duffy et al. apparatus results in construction of one or more “waveforms”—behavioral fingerprints—that can be employed to characterize the animal and the responses evoked by the material(s) of interest (see column 11, lines 38-47, of Duffy et al.). While the Duffy et al. system includes an animal activity monitoring circuit (column 6, lines 50-56, of Duffy et al.), it does not incorporate an animal position indicator. However, it would have been obvious to provide the Duffy et al. system with an animal position indicator, in view of the patent to Hall et al. (see element 4 and column 3, lines 50-64, of Hall et al.) that this permits the amplitude of movement of an animal—its breathing rate, for example—to be sensed in a noninvasive manner and without causing it pain. With regard to claims 6, 7, 11, 12, 14, 16, 17, the recited indicators are deemed to be functional equivalents and use of any particular one would have been obvious to one skilled in the art seeking to reduce costs and enhance reliability.

Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 10 improperly depends from a succeeding—rather than previous—claim.

Claims 20-24, 78-82 are objected to because of the following informalities: in claim 20, line 5, “overflow” is a misspelling; in claim 78, line 6, “finger print” should be consolidated to a single word, in line 7, –fingerprint– should be inserted after “control”; claim 82 should end with only one period. Appropriate correction is required.

Claims 8, 15, 20-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Applicant should note that withdrawn claims 34-77 must be cancelled prior to allowance of the instant application.

The patents to Castaigne (US 3,540,413), Hayes (US 4,617,876), and Matsuda (US 5,717,202) have been cited to provide additional examples of animal monitoring systems.

RPS: ©571/272-6894

3 May 2005

Robert P. Swiatek

ROBERT P. SWIATEK

PRIMARY EXAMINER

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